

James A. Krutcik, Esq. (SBN 140550)  
 A. Nicholas Georggin, Esq. (SBN 170925)  
 Michelle E. Ott, Esq., (SBN 241251)  
**KRUTCIK & GEORGIN**  
 26021 Acero  
 Mission Viejo, CA 92691  
 (949) 367-8590; (949) 367-8597 FAX

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ERIC DENMEAD and GABRIEL )  
 JIMENEZ, individually; and on behalf of )  
 all those similarly situated, )

CASE NO. C 07-01820 SI  
 Judge: Susan Illston  
 Complaint Filed: March 30, 2007

Plaintiffs,

vs.

**STIPULATION AND [PROPOSED] ORDER TO  
 CONTINUE CASE MANAGEMENT  
 CONFERENCE, HEARING RE: MOTION TO  
 DISMISS AND PENDING FRCP RULE 26  
 DEADLINES; DECLARATION OF A. NICHOLAS  
 GEORGIN**

LOWE'S COMPANIES, INC., a North )  
 Carolina corporation; LOWE'S HIW, )  
 INC., a Washington corporation; and )  
 DOES 1 through 20, inclusive, )

[Local Rule 6-2]

Defendants.

**WHEREAS** on March 30, 2007, Eric Denmead and Gabriel Jimenez, individually and on behalf  
 of all those similarly situated ("PLAINTIFFS") filed an action against Lowe's HIW, Inc. (collectively  
 "LOWE'S") in the United States District Court for the Northern District of California alleging various  
 violations of California wage and hour law by LOWE'S;

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1       **WHEREAS** on May 31, 2007, LOWE’S filed a Motion to Dismiss Action, or in the Alternative,  
2 To Stay All Proceedings; Notice of Related Cases and Notice of Pendency of Other Action for hearing  
3 on July 6, 2007;

4       **WHEREAS** on June 8, 2007, LOWE’S notified PLAINTIFFS of the successful mediation and  
5 settlement of a substantially similar and previously filed putative class action lawsuit already pending in  
6 the Los Angeles Superior Court entitled *Craig Hall, et al. v. Lowe’s HIW, Inc.*, Case No.: BC325832  
7 (hereinafter “*Hall*”), one of the pending cases on which LOWE’S bases it’s Motion to Dismiss or Stay  
8 Action;

9       **WHEREAS** on August 16, 2007, PLAINTIFFS filed an Opposition to Lowe's Motion to Dismiss  
10 Action, or in the Alternative, To Stay All Proceedings, in which PLAINTIFFS agreed to stay all  
11 proceedings in this action pending the settlement of the *Hall* action;

12       **WHEREAS** on August 23, 2007, in light of the pending *Hall* settlement and continued settlement  
13 discussions in this case, PLAINTIFFS and LOWE’S submitted a Stipulation to Continue Case  
14 Management Conference, Hearing Re: Motion to Dismiss and Pending FRCP Rule 26 Deadlines;

15       **WHEREAS** on November 14, 2007, Preliminary Approval of Class Action Settlement was  
16 granted in the *Hall* action;

17       **WHEREAS** on December 31, 2007, LOWE’S filed a Reply in Support of Motion to Dismiss  
18 Action, or in the Alternative, To Stay All Proceedings;

19       **WHEREAS** on April 15, 2008, a Final Approval Hearing will be held in the *Hall* action which,  
20 if granted, will encompass a number of the claims in this case;

21       **WHEREAS** in light of Preliminary Approval of the *Hall* settlement, PLAINTIFFS and LOWE’S  
22 agree to stay this action until after the Final Approval Hearing on April 15, 2008. A continuance of  
23 currently pending deadlines would serve the efficient administration of justice by preventing the parties  
24 from litigating issues which may be resolved by the Final Approval of the *Hall* settlement;

25       **WHEREAS** the parties believe that approximately 120 days will give the parties sufficient time  
26 to resolve the claims herein;

27       **WHEREAS** the parties agree to notify the Court of the status of the *Hall* case if Final Approval  
28

1 is not granted on April 15, 2008, at which time the parties may seek to further continue the proceedings  
2 in this action;

3  
4 **IT IS THEREFORE AGREED AND STIPULATED**, by and between PLAINTIFFS and LOWE's,  
5 through their respective counsel of record that:

6 1. The Case Management Conference and hearing date for LOWE'S Motion to Dismiss Action,  
7 or in the Alternative, To Stay All Proceedings be continued one hundred and twenty (120) days to May  
8 7, 2008, or an alternate date convenient for the Court.

9 2. The deadline for PLAINTIFFS' and LOWE'S Federal Rules of Civil Procedure Rule 26 Initial  
10 Disclosure deadline be continued one hundred and twenty (120) days to May 27, 2008, or an alternate date  
11 convenient for the Court.

12 3. The deadline for PLAINTIFFS' and LOWE'S filing of an ADR Certification and a Stipulation  
13 and [Proposed] Order Selecting ADR Process or a Notice of Need for ADR Phone Conference is  
14 continued in accordance with the new Case Management Conference date selected by the Court.

15  
16 **IT IS SO STIPULATED.**

17  
18 DATED: January 8, 2008

**KRUTCIK & GEORGIN**

19  
20 By s/A. Nicholas Georggin  
A. Nicholas Georggin, Esq.  
Michelle E. Ott, Esq.  
Attorneys for PLAINTIFFS

21  
22  
23 DATED: January 8, 2008

**AKIN GUMP STRAUSS HAUER & FELD LLP**

24  
25 By s/Kevin D. Rising  
Kevin D. Rising, Esq.  
Jeremy Bollinger, Esq.  
Attorneys for DEFENDANT,  
LOWE'S HIW, INC.

**DECLARATION OF A. NICHOLAS GEORGGIN IN SUPPORT OF STIPULATION TO  
CONTINUE CASE MANAGEMENT CONFERENCE, HEARING RE: MOTION TO  
DISMISS AND PENDING FRCP RULE 26 DEADLINES**

I, A. Nicholas Georggin, hereby declare as follows:

1. I am an attorney at law duly licensed to practice before all of the courts of the State of California and the United States District Court for the Northern, Central and Southern Districts of California. I am a partner in the law firm of Krutcik & Georggin, attorneys for Plaintiffs, Eric Denmead and Gabriel Jimenez. I have personal knowledge of the facts stated herein, and if called as a witness, I could and would competently testify thereto.

2. On March 30, 2007, Plaintiffs, Eric Denmead and Gabriel Jimenez, individually and on behalf of all those similarly situated, filed an action against Lowe's HIW, Inc., et al. ("Lowe's") in the United States District Court for the Northern District of California alleging various violations of California wage and hour law.

3. On April 18, 2007, Plaintiffs provided Lowe's with an extension of time to file their responsive pleading up to and including May 31, 2007.

4. On May 31, 2007, Lowe's filed a Motion to Dismiss Action, or in the Alternative, To Stay All Proceedings; Notice of Related Cases and Notice of Pendency of Other Action. The hearing on Lowe's Motion to Dismiss was originally set for July 6, 2007.

5. On June 8, 2007, I received a telephone call from Kevin Rising, Esq., counsel for Lowe's who informed me that a successful mediation took place and a settlement was reached in the action of *Craig Hall, et al. v. Lowe's HIW, Inc.*, Case No.: BC325832, one of the pending cases on which Lowe's bases its Motion to Dismiss or Stay Action.

6. On June 15, 2007, the parties stipulated to continue the deadline for Plaintiffs' Opposition to Defendant's Motion to Dismiss Action, or in the Alternative, To Stay All Proceedings to August 16, 2007; continue the Case Management Conference date and the hearing date for Lowe's Motion to Dismiss or Stay the Action to September 6, 2007; and continue the deadline for Initial Disclosures pursuant to Federal Rules of Civil Procedure, rule 26 to September 29, 2007, to allow the parties time to continue settlement discussions.

7. When Lowe's notified Plaintiffs of the *Hall* settlement and stipulated to continue dates, Plaintiffs and Lowe's stipulated to continue all dates our understanding was that the stipulation was necessary to allow the parties time to engage in settlement discussions for Plaintiffs' action since settlement was achieved in the *Hall* action.

8. On August 16, 2007, my office filed an Opposition to Lowe's Motion to Dismiss Action, or in the Alternative, To Stay All Proceedings, in which we agreed to stay all proceedings in this action pending the settlement of the *Hall* action.

9. On August 23, 2007, due to the *Hall* settlement and ongoing settlement discussions, Plaintiffs and Lowe's submitted a Stipulation to Continue Case Management Conference, Hearing Re: Motion to Dismiss and Pending FRCP Rule 26 Deadlines.

10. On December 31, 2007, my office received Lowe's HIW, Inc.'s Reply in Support of Motion to Dismiss Action, or in the Alternative, To Stay All Proceedings. The Declaration of Kevin Rising in Support of Lowe's HIW, Inc.'s Reply brief informed my office that on November 14, 2007, Preliminary Approval of Class Action Settlement was granted in the *Hall* action and that a Final Approval Hearing will be held on April 15, 2008.

11. On January 7, 2008, I spoke with Kevin Rising, Esq., counsel for Lowe's, and we agreed to stay Plaintiffs' action until after the *Hall* Final Approval Hearing to avoid litigating issues that may be resolved by the *Hall* settlement..

12. The continuance of the Case Management Conference date, the hearing date for Lowe's Motion to Dismiss or Stay the Action and the deadline for Initial Disclosures pursuant to Federal Rules of Civil Procedure, rule 26 for 120 days will promote judicial economy and efficient use of financial resources by all parties.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 8<sup>th</sup> day of January, 2008 at Mission Viejo, California.

s/A. Nicholas Georggin  
A. NICHOLAS GEORGIN, ESQ.

1           **FOR GOOD CAUSE APPEARING** and pursuant to the stipulation of the parties in the action  
2 entitled *Denmead v. Lowe's Companies, Inc. et al.*, Case No. C 07-01820 SI:

3           1. ~~The Case Management Conference and~~ hearing date for LOWE'S Motion to Dismiss Action,  
4 or in the Alternative, To Stay All Proceedings is continued one hundred and twenty (120) days to May <sup>9</sup>~~7~~,  
5 2008.

6           2. The deadline for PLAINTIFFS' and LOWE'S Federal Rules of Civil Procedure Rule 26 Initial  
7 Disclosure deadline is continued one hundred and twenty (120) days to May 27, 2008.

8           3. The deadline for PLAINTIFFS' and LOWE'S filing of an ADR Certification and a Stipulation  
9 and [Proposed] Order Selecting ADR Process or a Notice of Need for ADR Phone Conference is  
10 continued to 5/7/08 <sup>5/9/08 @ 2:30 p.m.</sup> in accordance with the new Case Management Conference date.

11 **IT IS SO ORDERED**

12  
13 Dated: \_\_\_\_\_



\_\_\_\_\_  
Hon. Susan Illston  
United States District Judge

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16 The case management conference to be held on 1/15/08 at 10:00 a.m. maybe  
17 attended by phone.  
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